

MESSAGE NO: 0060205

MESSAGE DATE: 02/29/2000

MESSAGE STATUS: Active

CATEGORY: Antidumping

TYPE: INF-Information Notice PUBLIC ☒

NON-PUBLIC ☐

SUB-TYPE:

FR CITE: FR

FR CITE DATE:

REFERENCE 8236111
MESSAGE #
(s):

CASE #(s): A-201-820

EFFECTIVE DATE:

COURT CASE #:

PERIOD OF REVIEW:

TO

PERIOD COVERED: 11/22/1996 TO

Notice of Lifting of Suspension Date:

TO: { Directors Of Field Operations, Port Directors }

FROM: { Director AD/CVD & Revenue Policy & Programs }

RE: CLARIFICATION OF MESSAGES 7327115 11/22/1996 AND 8236111 8/24/1998 FOR
THE SUSPENSION AGREEMENT ON FRESH TOMATOES FROM MEXICO (A-201-820)

MESSAGE NO: 0060205

DATE: 02 29 2000

CATEGORY: ADA

TYPE: INF

REFERENCE: 8236111

REFERENCE DATE: 08 24 1998

CASES: A - 201 - 820

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PERIOD COVERED: 11 22 1996 TO

LIQ SUSPENSION DATE:

TO: DIRECTORS OF FIELD OPERATIONS
PORT DIRECTORS

FROM: DIRECTOR, TRADE ENFORCEMENT & CONTROL

RE: CLARIFICATION OF MESSAGES 7327115 11/22/1996 AND 8236111
8/24/1998 FOR THE SUSPENSION AGREEMENT ON FRESH TOMATOES
FROM MEXICO (A-201-820)

1. ON 11/01/1996, THE DEPARTMENT OF COMMERCE PUBLISHED IN THE
FEDERAL REGISTER ITS SUSPENSION OF THE ANTIDUMPING INVESTIGATION
OF FRESH TOMATOES FROM MEXICO (MESSAGE NUMBER 7327113 DATED
11/22/1996). THIS IS A CLARIFICATION OF MESSAGES 7327115
(11/22/1996) AND 8236111 (08/24/1998) WHICH DESCRIBE THE SCOPE
AND ENFORCEMENT REQUIREMENTS OF THE SUSPENSION AGREEMENT ON
FRESH
TOMATOES FROM MEXICO. PLEASE READ ALL OF THIS MESSAGE.

2. MESSAGE NUMBER 7327115, A MEMO TO "BULLETIN BOARD OTO5, BROKERS" ISSUED BY CUSTOMS ON 11/22/1996, PROVIDED THE FOLLOWING INSTRUCTIONS REGARDING THE SCOPE OF THE AGREEMENT:

THE MERCHANDISE SUBJECT TO THIS AGREEMENT IS ALL FRESH OR CHILLED TOMATOES (FRESH TOMATOES) WHICH HAVE MEXICO AS THERE ORIGIN, EXCEPT FOR COCKTAIL TOMATOES AND THOSE TOMATOES WHICH ARE FOR PROCESSING. FOR PURPOSES OF THIS AGREEMENT, COCKTAIL TOMATOES ARE GREEN HOUSE-GROWN TOMATOES, GENERALLY LARGER THAN CHERRY

TOMATOES AND SMALLER THAN ROMA OR COMMON ROUND TOMATOES, AND ARE

HARVESTED AND PACKAGED ON THE VINE FOR SALE. FOR PURPOSES OF THIS AGREEMENT, PROCESSING IS DEFINED TO INCLUDE PRESERVING BY ANY COMMERCIAL PROCESS, SUCH AS CANNING, DEHYDRATING, DRYING OR THE ADDITION OF CHEMICAL SUBSTANCES, OR CONVERTING THE TOMATO PRODUCT INTO JUICES, SAUCES OR PUREES. FURTHER, IMPORTS OF FRESH TOMATOES FOR PROCESSING ARE ACCOMPANIED BY AN IMPORTER'S EXEMPT COMMODITY FORM (FV-6)(WITHIN THE MEANING OF 7 C.F.R. SECTION 980.501(A)(2) AND 980.212(I)). FRESH TOMATOES THAT ARE IMPORTED FOR CUTTING UP, NOT FURTHER PROCESSED (E.G., TOMATOES USED IN THE PREPARATION OF FRESH SALSA OR SALAD BARS), AND NOT ACCOMPANIED BY AN FV-6 FORM ARE COVERED BY THE SCOPE OF THIS AGREEMENT.

ALL COMMERCIALLY GROWN TOMATOES SOLD IN THE UNITED STATES, BOTH FOR THE FRESH MARKET AND FOR PROCESSING, ARE CLASSIFIED AS LYCOPERSICON ESCULENTUM. IMPORTANT COMMERCIAL VARIETIES OF FRESH

TOMATOES INCLUDE COMMON ROUND, CHERRY, PLUM, AND PEAR TOMATOES, ALL OF WHICH, WITH THE EXCEPTION OF COCKTAIL TOMATOES, ARE COVERED BY THIS AGREEMENT.

TOMATOES IMPORTED FROM MEXICO COVERED BY THIS AGREEMENT ARE CLASSIFIED UNDER THE FOLLOWING SUBHEADINGS OF THE HARMONIZED TARIFF SCHEDULES OF THE UNITED STATES (HTSUS), ACCORDING TO THE SEASON OF IMPORTATION: 0702.00.20, 0702.00.40, 0702.00.60, AND 9906.07.01 THROUGH 9906.07.09. ALTHOUGH THE HTS NUMBERS ARE PROVIDED FOR CONVENIENCE AND CUSTOMS PURPOSES, THE WRITTEN

DESCRIPTION OF THE SCOPE OF THIS PROCEEDING IS DISPOSITIVE.

3. IN ADDITION TO OUTLINING THE SCOPE OF THE MERCHANDISE COVERED BY THE AGREEMENT, MESSAGE NUMBER 7327115 CONTAINED PROCEDURES TO

FOLLOW FOR SIGNATORY AND NON-SIGNATORY PRODUCERS/EXPORTERS. PLEASE REFER TO THIS MESSAGE FOR AN IN DEPTH EXPLANATION OF THE REQUIREMENTS SET FORTH BY THE SUSPENSION AGREEMENT ON FRESH TOMATOES FROM MEXICO.

4. ON 08/24/1998, MESSAGE NUMBER 8236111 IN THE ABOVE-REFERENCED CASE WAS SENT TO CUSTOMS INSTRUCTING THE FOLLOWING:

EFFECTIVE SEPTEMBER 5, 1998, PLEASE FOLLOW ALL INSTRUCTIONS CONTAINED IN THIS MESSAGE. THE SUSPENSION AGREEMENT WAS AMENDED ON AUGUST 6, 1998 (63 FR 43674). AS REQUIRED BY THE AUGUST 6, 1998, AMENDMENT, A WRITTEN DECLARATION SHALL BE REQUIRED AS A CONDITION OF RELEASE BEYOND THE CUSTOMS PORT OF ENTRY FOR EACH ENTRY OF SUBJECT TOMATOES MADE BY A SIGNATORY TO THE SUSPENSION AGREEMENT. THE DECLARATION MUST STATE THAT THE PRODUCER/EXPORTER

IS A SIGNATORY TO THE SUSPENSION AGREEMENT AND THAT THE ENTRY HAS BEEN OR WILL BE SOLD AT A PRICE WHICH IS NOT LESS THAN THE REFERENCE PRICE CURRENTLY IN EFFECT PURSUANT TO THE SUSPENSION AGREEMENT (AS AMENDED). ALSO, THE DECLARATION MUST BE AN ORIGINAL, DATED, SEQUENTIALLY NUMBERED DOCUMENT SIGNED BY THE SIGNATORY AND SHALL INCLUDE THE SIGNATORY SUSPENSION AGREEMENT IDENTIFICATION NUMBER, THE BRAND LABEL ON THE TOMATOES, AND THE IDENTITY OF THE U.S. RECEIVER. (NOTE: THE SEQUENTIAL NUMBER IS FOR USE BY THE DEPARTMENT OF COMMERCE.) THE UNITED STATES WILL PROHIBIT THE RELEASE INTO THE UNITED STATES OF ANY FRESH TOMATOES PRODUCED BY A SIGNATORY TO THE SUSPENSION AGREEMENT THAT ARE NOT

ACCOMPANIED BY SUCH A DECLARATION.

5. AS NOTED IN PARAGRAPH 4 ABOVE, THE AUGUST 6, 1998, AMENDMENT TO THE AGREEMENT SPECIFICALLY PROHIBITS THE RELEASE INTO THE UNITED STATES OF ANY FRESH TOMATOES PRODUCED BY A

SIGNATORY THAT ARE NOT ACCOMPANIED BY THE PROPER DECLARATION. CUSTOMS OFFICERS SHOULD BE ON ALERT TO ENFORCE THE SUSPENSION AGREEMENT AND ENSURE THAT THE REQUIRED DOCUMENTATION FOR IMPORTS

OF SUBJECT TOMATOES ARE PROVIDED AS A CONDITION OF RELEASE OF THE MERCHANDISE BEYOND THE CUSTOMS PORT OF ENTRY. IN ADDITION, UNDER THE AGREEMENT IMPORTERS ARE NOT ALLOWED TO ENTER TOMATOES THAT HAVE BEEN PRODUCED BY A SIGNATORY AS TOMATOES PRODUCED BY A NON-SIGNATORY. ANY ATTEMPT TO DO SO, EITHER BY COMMISSION OR OMISSION, IS A POTENTIAL VIOLATION OF CUSTOMS LAW.

6. TO ENSURE THAT THERE IS NO CONFUSION WITH REGARD TO WHETHER ROMA TOMATOES AND CHERRY TOMATOES ARE WITHIN THE SCOPE OF THE AGREEMENT, COMMERCE CONFIRMS THAT, AS PER PARAGRAPH 2 ABOVE, ALL REQUIREMENTS OF THE AGREEMENT APPLY TO THESE TWO TYPES OF TOMATOES. THE ONLY FRESH TOMATOES THAT ARE NOT COVERED BY THE SCOPE OF THE AGREEMENT ARE COCKTAIL TOMATOES AND TOMATOES FOR FURTHER PROCESSING AS DEFINED IN THE SCOPE.

7. IF THERE ARE ANY QUESTIONS REGARDING THIS MATTER BY CUSTOMS OFFICERS, PLEASE CONTACT, VIA E-MAIL, THROUGH THE APPROPRIATE SUPERVISORY CHANNELS, OTHER GOVERNMENT AGENCY LIAISON, USING THE ATTRIBUTE "HQ OAB". THE IMPORTING PUBLIC AND INTERESTED PARTIES SHOULD CONTACT MARK ROSS, OFFICE OF ANTIDUMPING DUTY ENFORCEMENT, IMPORT ADMINISTRATION, DEPARTMENT OF COMMERCE, AT (202) 482-4794.

8. THERE ARE NO RESTRICTIONS ON THE RELEASE OF THIS INFORMATION.

PAUL SCHWARTZ

Company Details

*Party Indicator Value:

I = Importer, M = Manufacturer, E = Exporter, S = Sold To Party